

REMARKS

By this Amendment, claims 1-13 are amended to merely clarify the recited subject matter and new claim 14 (patentable by virtue of its dependency on claims allowable for reasons asserted herein) is added to more fully claim the disclosed invention.

The Office Action rejected claims 9, 12 and 13 under 35 U.S.C. 112, second paragraph, for allegedly being indefinite. Applicants submit that those claims are now in full conformance with 35 U.S.C. 112.

The Office Action rejected claims 1-13 under 35 U.S.C. 102(b) as being unpatentable over Malkin et al. (U.S. 6,061,650; hereafter “Malkin”). Applicants traverse the rejection because Malkin fails to disclose, teach or suggest all the features recited in the rejected claims.

For example, Malkin fails to disclose, teach or suggest the claimed method for method for connecting one of several customer premises equipment via an ATM network to one of several service providers said method comprising “connecting each customer premises equipment to an ATM network via a corresponding network termination point; forming an access server function having a permanent virtual connection to each NT and a connection to each service provider ; establishing a tunnelling protocol on said permanent virtual connection between each NT and said access server function, said tunnelling protocol being able to support an integrated signalling protocol” as recited in independent claim 1 and its dependent claims.

Similarly, Malkin fails to disclose, teach or suggest the claimed network element providing an access server function for connecting each of several customer premises equipment via an ATM network to one of several service providers, said network element comprising “interface means to several network termination points, or network termination points for connecting each customer premises equipment to the ATM network via a corresponding network termination point; and interface means to each service provider for providing a permanent virtual connection or a switched virtual connection thereto; means for using a tunnelling protocol on said permanent virtual connection between itself and each network termination point, said tunnelling protocol being able to support an integrated signalling protocol” as recited in independent claim 8 and its dependent claims.

The Office Action’s rejection appears to be predicated on the presumption that Malkin’s reference to customer premises equipment is referring to the same equipment as applicant’s claims. However, a thorough reading of both Malkin and Applicant’s specification and claims would have indicated to one of ordinary skill in the art that the

claimed invention's use of the term customer premises equipment is referring to an end-user's equipment. To the contrary, in Malkin, at col. 2, line 25, the reference teaches that to begin establishment of a connection, the user dials into the RAS 12 with the remote node 10. Subsequently, at col. 2, lines 49 - 56, Malkin teaches that the user's connection (from a remote node) is conveyed via the CPE to the access server AS, 20. Thus in Malkin, the user uses a remote node to access a server via customer premises equipment.

However, if claimed customer premises equipment were to correspond to Malkin's customer premises equipment, the teachings of Malkin would have no relevance to the claimed invention because the claimed invention relates to connecting one of several customer premises equipment via an ATM network to one of several service providers. To the contrary, Malkin's Figure 1, and Malkin generally, relate to a user using a remote node 10 to access a server via customer premises equipment. Thus, the claimed invention relates to several customer premises equipments where Malkin's teachings are limited to a single piece of customer premises equipment.

In an alternative, potential interpretation of Malkin, the Office Action may have been predicated on the presumption that the claimed customer premises equipment corresponds to Malkin's remote nodes; however, no information regarding such an interpretation has been provided by the Office Action. Such information must be provided if the Office is to maintain the pending rejection.

Applicants also note with some degree of confusion that the rejection of claim 3 appears to equate Malkin's remote node with the claimed service provider. Therefore, Applicant's maintain that the rejection is non-sensical throughout.

Nevertheless, Applicants submit that Malkin fails to disclose, teach or suggest the claimed connection of each piece of customer premises equipment to the ATM network via a corresponding network termination.

Moreover, Malkin fails to disclose, teach or suggest the claimed formation of an access server function having a permanent virtual connection to each network termination point and a connection to each service provider. In fact, Malkin merely discloses a virtual circuit between the gateway 22 and CPE 24 (col. 2, line 51) but fails to disclose teach or suggest whether the virtual circuit is a permanent virtual connection. More significantly, Malkin's virtual circuit or connection is not established between an access server function and each network termination point. Further, Malkin's gateway 22 (from which the virtual

circuit originates) fails to have a connection to a service provider because the Office Action has equated the remote node 10 with claimed service provider.

Additionally, Malkin fails to disclose, teach or suggest the claimed customer premises equipment or its user selecting an appropriate service provider by using an integrated signalling protocol. As stated above, the claimed invention's and Malkin's use the term customer premises equipment refer to articles used for very different purposes. Thus, the Office Action has failed to cite any relevant passages pertaining to the customer premises equipment or its user selecting an appropriate service provider or selection of an appropriate service provider by using an integrated signalling protocol.

Therefore, claims 1-14 are patentable over the cited prior art reference of Malkin and the rejection of claims 1-13 is traversed.

All prior art rejections having been traversed, Applicants submit that the application is in condition for immediate allowance and requests that a Notice be issued to that effect. If anything remains necessary to place the application in condition for allowance, Applicants request that the Examiner contact Applicants' undersigned representative.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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